

AMENDMENT TO THE DRAWINGS:

Attached is one sheet of replacement drawings containing Figure 1 for Figure 1 as originally filed. No new matter has been added.

Attachment: Replacement Sheet (1)

REMARKS

Claims 16-31 are pending. By this Amendment, new Figure 1 is presented in order to address the objections noted in the Office Action. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 16-21, 23 and 28 were rejected under 35 U.S.C. §102(a) over Soeholm et al. (U.S. Patent Publication No. 2004/0185770). In addition, claim 22 was rejected under 35 U.S.C. §103(a) over Soeholm et al. in view of Potter (U.S. Patent No. 4,552,059). Claims 24-27 and 25-31 were rejected under 35 U.S.C. §103(a) over Soeholm et al. in view of “being a design choice”. Finally, claim 25 was rejected under 35 U.S.C. §103(a) over Soeholm et al. in view of “being a design choice” and further in view of Morris (U.S. Patent No. 5,697,939). These rejections are respectfully traversed.

Each of the rejections relies on the teachings of Soeholm et al., which was published on September 23, 2004, based on an application filed on November 13, 2003. Attached herewith is a certified English language translation of Applicant’s German priority Application No. 103 16 571.1, filed April 10, 2003, which is before the November 13, 2003 filing date of Soeholm et al.

Accordingly, Applicant respectfully submits that Soeholm et al. does not qualify as prior art as to the present application.

Moreover, to the extent that the Examiner relies on Provisional Application No. 60/453,086, which was filed on March 6, 2003, i.e., about a month before the filing date of the above mentioned German priority document, the provisional application does not appear to include the disclosure in U.S. Patent Publication No. 2004/0185770 which the Examiner relied upon in order to reject the claims of the present application.

Finally, Applicant respectfully traverses the rejection based on the combination of Soeholm et al. “in view of being a design choice”. In particular, Soeholm et al. does not teach the claimed pressure difference threshold of preferably substantially about 4 Pascal. Thus, threshold is described on page 7, lines 14-23, i.e., a serious risk is associated with this threshold, e.g., such under pressure may result in sucking back of fireplace

exhaust/fumes into the room where the extraction device and cooking appliance are located.

Accordingly, the premise of the Examiner's rejection is flawed as the original specification attributes a specific advantage to the claimed arrangement. Thus, the Examiner may not properly rely on so-called "design choice" rationale to reject the claims.

Reconsideration and withdrawal of the rejections are respectfully requested.

Applicant respectfully requests entry of the present Amendment. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is enclosed.

Respectfully submitted,

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